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January 23, 2023

Honorable Katherine Polk Failla
U.S. District Court Judge
Eastern District of New York
225 Cadman Plaza E,
Brooklyn, NY 11201

MEMO ENDORSED

***Re: Samuel Lopez vs. 228 East 116 LLC, and Quesadillas Dona Maty, Corp
Civil Action No.: 1:22-cv-07135-KPF
Letter-Motion to Adjourn Hearing and Leave to Amend Complaint***

Dear Judge Hon. Failla,

We represent Plaintiff in the above-styled action.

Pursuant to the Court's Order [DE#32], the Plaintiff is required to appear and show good cause for Default Judgment at the scheduled January 24, 2022 Hearing.

Paramount, the Plaintiff has just recently discovered that the Complaint unintentionally named the Defendant ***Quesadillas Dona Maty, Corp*** erroneously, and thereon beseeches the Court for its grace and understanding in the Plaintiff's formal request herein for an adjournment of the Jan. 24, 2022 hearing on the Default Judgment matter. This is the first request for adjournment, without consent from any other party.

Plaintiff contends that there is sufficient cause to adjourn the hearing and permit the Plaintiff to amend the Complaint to add the correct name of Defendant and make proper service, and thereon properly adjudicate the matter on its merits. The appearing Defendant recently provided information that the Defendant was not properly named, which was just confirmed by the Plaintiff. Additionally, Plaintiff apologizes for the timeliness of the motion, and avers that the mistake was one made entirely in good faith, without dilatory intention or any bad motive, and furthermore such error can be quickly rectified this issue and make upright the litigation in this matter so that the gears of the judicial machinery are more properly aligned.

For these reasons, Plaintiff requests an adjournment of the Order to Show Cause Hearing and leave to file an amended complaint at your Honor's decorous discretion.

This extension will not affect any other deadlines or events in this case.

Thank you for your time in considering this request.

Most Respectfully,

BARDUCCI LAW FIRM



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Maria-Costanza Barducci Esq.

cc: Via CM/ECF Only

Application GRANTED. The Court is disappointed to receive a late-breaking request for an adjournment of the show cause hearing due to Plaintiff's oversight and inattention to this matter. Because it is clear that Plaintiff's error is a substantial one, the Court hereby **ADJOURNS sine die** the show cause hearing scheduled to take place on January 24, 2023. The Court further notes that Plaintiff filed the Complaint in this case on August 22, 2022, and that Plaintiff's error has now caused substantial delay in the case's prosecution. As such, Plaintiff is directed to file an amended complaint on or before **January 27, 2023**, and to serve the amended complaint by **February 10, 2023**. Plaintiff and Defendant 228 East 116 LLC, who has already appeared and answered the Complaint, are directed to file a joint letter on or before **January 27, 2023**, detailing the next steps for proceeding in this case.

The Clerk of Court is directed to terminate the pending motion at docket entry 37.

Dated: January 23, 2023
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE